

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

CORECOMM SERVICES, LLC<sup>1</sup>

Employer

and

Case 4–RC–20996

COMMUNICATIONS WORKERS OF  
AMERICA, LOCAL 13000, AFL-CIO<sup>2</sup>

Petitioner

**REGIONAL DIRECTOR’S DECISION AND  
DIRECTION OF ELECTION**

The Employer, CoreComm Services, LLC, an indirect wholly-owned subsidiary of ATX Communications, Inc. (ATX), provides telecommunications and data services to commercial and residential customers in 13 states. The Petitioner, CWA Local 13000, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of the Employer’s Field Technicians (Levels I, II, III, and Team Leads), who are dispatched from the Employer’s King of Prussia, Pennsylvania facility, along with a Facilities Warehouse employee and an Inventory Management employee. The petitioned-for Field Technicians work in New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. The Employer contends that the petitioned-for unit is inappropriate and that the smallest appropriate unit must include Field Technicians working in the Employer’s Ohio Region (the Ohio Field Technicians), as well as the Employer’s Network Engineers and Platform Engineers.<sup>3</sup> The Petitioner’s proposed unit would consist of 22 employees, while the Employer’s proposed unit would consist of 39 employees. The Petitioner is willing to proceed to an election in any unit found appropriate.

A Hearing Officer of the Board held a hearing on the issues in this case, and both parties filed briefs. I have considered the evidence and arguments presented by the parties, and I have concluded, in agreement with the Employer, that the smallest appropriate unit must include the Ohio Field Technicians because they possess a sufficient community of interest with the other Field Technicians to warrant inclusion in a single unit. In agreement with the Petitioner, I have concluded that the Network Engineers and Platform Engineers should be excluded from the unit.

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<sup>1</sup> The Employer’s name appears as amended at the hearing.

<sup>2</sup> The Petitioner’s name appears as amended at the hearing.

<sup>3</sup> The Platform Engineers are also known as Data Platform Engineers.

In this Decision, I will first set forth an overview of the Employer's operations. Next, I will review the factors that must be evaluated in determining whether the unit sought by the Petitioner is an appropriate unit. Finally, I will present the facts and the reasoning in support of my conclusion.

## **I. OVERVIEW OF OPERATIONS**

The Employer provides local and long-distance telephone services, Internet services, web platforming, and other voice and data telecommunications services to its customers. The Employer's King of Prussia headquarters houses corporate offices as well as the major dispatch operations. Administratively, the Employer is divided into the Field Services, Data Services, Network Services, and Operations divisions.

Field Technicians work primarily at customers' locations, installing and repairing wiring and devices necessary for the customers' telecommunications systems. They are in the Field Services division, which spans five Regions: Northern, Southern, King of Prussia, Great Lakes, and Ohio.<sup>4</sup> The Northern Region covers northern New Jersey and New York. The Southern Region consists of parts of Delaware, Maryland and Virginia. The King of Prussia Region covers eastern Pennsylvania and southern New Jersey, while the Ohio Region covers western Pennsylvania, Ohio, and Michigan.<sup>5</sup> The Great Lakes Region covers Chicago, Wisconsin, and parts of Indiana, but there are no petitioned-for employees in this Region.

Director of Field Services Jonathan Whiley is the first-level supervisor for all of the Field Technicians. He reports to the Senior Vice President and General Manager of ATX. Whiley has offices in both King of Prussia and Columbus, Ohio.

There are 27 Field Technicians assigned to the Employer's Regions as follows: Northern (5), Southern (3), King of Prussia (11), and Midwest (8). In addition to King of Prussia, field offices are located in Cleveland, Ohio, Columbus, Ohio (Ohio Region), Woodbridge, New Jersey (Northern Region), and Towson, Maryland (Southern Region).

The Employer employs six Network Engineers. Two of them work in the Network Services division under the direction of William McFeeley, while the remaining four work in Data Services under the direction of Rick Akey. Their work includes sales responsibilities and tends to involve more complex data installations and solutions than the work of Field Technicians. Similar to the Field Technicians, Network Engineers work primarily at customer locations.

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<sup>4</sup> The Northern Region is also known as the New Jersey Region, and the Ohio Region is also known as the Midwest Region.

<sup>5</sup> In connection with Chapter 11 bankruptcy proceedings involving ATX, the local telephone service provided in the Ohio Region is scheduled to be sold in December 2005. It is unclear how this development will affect the employees in that Region. Team Lead Richard Leve testified that at a recent meeting, Director of Field Services Jonathan Whiley said the Ohio Field Technicians would no longer be part of his division. Whiley testified, however, that they will continue to be under his supervision.

The four Platform Engineers are in the Operations Division. These employees work primarily at the Employer's three central offices.<sup>6</sup> There are two central offices in Philadelphia, one on North Broad Street and the other at 24<sup>th</sup> and Walnut Streets. The third central office is in Herndon, Virginia. These facilities possess telecommunications switching capacities through local telephone exchange carriers. Customers lease space from the Employer at these facilities to house and safeguard computer data that they would otherwise store in-house, and platform engineers work on the customers' systems there. The central offices are also staffed by Switch Technicians and Translation Engineers, who are not part of the petitioned-for unit.

There is no Dispatcher for Network Engineers or Platform Engineers. Instead, these employees receive assignments directly through the Employer's internal computer network using remote access devices.

## **II. FACTORS RELEVANT TO DETERMINING WHETHER THE PETITIONED-FOR UNIT IS APPROPRIATE**

The Board's procedure for determining an appropriate unit under Section 9(b) is first to examine the petitioned-for unit. If that unit is appropriate, the inquiry ends. *American Hospital Association v. NLRB*, 499 U.S. 606, 610 (1991); *Dezcon, Inc.*, 295 NLRB 109, 111 (1989). If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative unit proposals of the parties. *Boeing Co.*, 337 NLRB 152, 153 (2001); *Bartlett Collins Co.*, 334 NLRB 484 (2001). The Board generally attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for employee classifications. See *Overnite Transportation Co.*, 331 NLRB 662, 663 (2000). It is well settled that the unit need only be *an* appropriate unit, not the most appropriate unit. *Morand Brothers Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd. on other grounds* 190 F.2d 576 (2d Cir. 1951).

In determining whether a group of employees possesses a community of interest, the Board examines such factors as the degree of functional integration between employees, common supervision, skills, and job functions, employee contact and interchange, and similarities in wages, hours, benefits, and other terms and conditions of employment. See *Home Depot USA*, 331 NLRB 1289 (2000); *Esco Corp.*, 298 NLRB 837 (1990).

Ordinarily, in a multi-facility operation, the Board holds that a single location unit is presumptively appropriate for collective bargaining. *J&L Plate, Inc.* 310 NLRB 429 (1993); *Bowie Hall Trucking*, 290 NLRB 41, 42 (1988). However, that presumption is inapplicable where, as in this case, the petitioning union seeks to represent a multi-facility unit. *Hazard Express, Inc.*, 324 NLRB 989 (1997); *Capital Coors Co.*, 309 NLRB 322, n. 1 (1992). When the presumption is inapplicable, the Board evaluates whether the employees at the respective facilities possess a sufficient community of interest to warrant their inclusion in a single bargaining unit by considering the following criteria: similarity in employee skills, duties, and

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<sup>6</sup> Central offices are also called "co-locate" offices.

working conditions; employee contact and interchange; functional integration; centralized control of management and supervision; geographical separation of facilities; and bargaining history. *Bashas', Inc.*, 337 NLRB 710 (2002); *Alamo Rent-A-Car*, 330 NLRB 897 (2000); *Macy's West Inc.*, 327 NLRB 1222, 1223 (1999); *Bowie Hall Trucking*, 290 NLRB 41, 42 (1988).

### **III. FACTS**

#### **A. Field Technicians**

##### *Job functions*

All Field Technicians, regardless of the Region in which they work, install channel banks, firewalls, routers, and wiring in the customers' data and telecommunications systems. Field Technicians also provide basic Internet access.

Field Technicians work almost exclusively at customer premises. They drive company vans, which store equipment and tools needed for customer service, and they take them home at night. Their tools include sidekicks, T-birds, and Volt-Ohm-meters, which are types of testing gear, and tone and probe sets, which verify line connections. They also use various hand tools. Tools may be replenished at the field offices.

About 95 percent of the time, Field Technicians work alone. About 75 percent of their work involves installations for voice communications, while about 25 percent deals with data communications. On average, Field Technicians handle two assignments per day, each of which takes about two to two-and-a-half hours to perform.

Field Technicians are classified as Level I, II, or III or Team Leads. Team Leads are non-supervisory employees who are responsible for helping to manage the work of Field Technicians on their teams and keep track of their location and activities. Team Leads also handle technical training for new hires and track productivity. The Employer has five Field Technicians I, 16 Field Technicians II, two Field Technicians III, and five Team Leads.

There are Dispatchers in King of Prussia and Cleveland, Ohio, but not in the Northern or Southern Regions. About 80 customer work orders enter the Employer's dispatch system each day, and the King of Prussia dispatch office is the initial point of contact for work orders at all Regions. Work orders are entered into a computer data base, where they are reviewed by a Dispatcher. For the Field Technicians other than those in Ohio, a King of Prussia Dispatcher directly makes the assignment, which is predicated on the employee's availability and the job's proximity to his or her home. For the Ohio Field Technicians, the King of Prussia Dispatcher generally forwards the order by e-mail to an Ohio Dispatcher who makes the assignment. Work to be performed at both a King of Prussia Region location and an Ohio Region location for a multi-site customer is dispatched entirely from King of Prussia. About 10 percent of the Ohio Field Technician work orders are dispatched directly from King of Prussia, while the rest are

dispatched from Ohio. Field Technician John Stauffer, who worked briefly in the dispatch office in King of Prussia, testified that the Ohio Dispatcher receives work orders only after they are screened and entered into the system at King of Prussia.

The Dispatcher gives all Field Technicians their assignments by e-mail or telephone. Field Technicians retrieve assignments via remote access, through personal computers, voice mail, or cell phone text messaging. They have the option of retrieving assignments directly at the field office to which they are assigned.

All Field Technicians are dispatched from their homes at around 7:30 a.m. and typically work until about 4 p.m. Monday through Friday. They may pick up assignments and supplies at King of Prussia or at field offices in their Region. All Field Technicians service residential and commercial customers. They wear company-issued shirts, jackets, and windbreakers with the “ATX” logo.

### *Skills*

Field Technicians are not required to obtain any particular certifications. According to their job descriptions, Field Technicians must have at least one year of telecommunications or equivalent experience and advanced personal computing skills. A Field Technician III must have at least three years of telecommunications or equivalent experience, while Team Leads are required to have seven years of telecommunications or equivalent experience. A Bachelor’s degree is preferred but not required for Field Technicians.<sup>7</sup> A Field Technician I must have basic knowledge of telephone systems and Microsoft Excel, while a Field Technician II must also know how to handle wide area networks. All Field Technicians must know DS-1, and Field Technicians III must also know DS-3.

### *Supervision*

As noted above, Jonathan Whiley supervises all Field Technicians. He conducts biweekly meetings when possible with all Field Technicians under his supervision via conference calls from his King of Prussia office. Field Technicians generally telephone from the road to participate in these meetings, although some Field Technicians located in proximity to King of Prussia may attend these meetings in person.<sup>8</sup>

Whiley also conducts meetings during his travels to the various field offices. For these meetings, Field Technicians come in person to their assigned offices. Field Technicians are not required to visit their field offices for any other reason, although they may choose to do so for dispatches, supplies, and paperwork.

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<sup>7</sup> Team Lead Richard Leve has a high school education, while Field Technician John Stauffer has an Associate’s degree in Electrical Engineering.

<sup>8</sup> Leve testified, however, that the Ohio Field Technicians did not attend two recent meetings.

### *Terms and Conditions of Employment*

Wages and other terms and conditions of employment for all Field Technicians and other employees are determined by the King of Prussia corporate office. Field Technicians are paid on an hourly basis. Field Technicians I earn between \$30,000 and \$45,000 per year, Field Technicians II earn between \$36,000 and \$54,000 per year, and Field Technicians III earn between \$43,000 and \$64,800. Team Leads are paid at the highest end of the Field Technician III scale.

All Field Technicians receive overtime pay. They are also eligible for bonuses, which are determined monthly based on the number of jobs performed. Bonuses average between \$150 and \$400 per month. Field Technicians record their work hours on timesheets. There is no apparent difference between the compensation paid to the Ohio Field Technicians and the compensation of the other Field Technicians.

All Field Technicians receive the same benefits, including health insurance, dental insurance, disability insurance, life insurance, a 401(k) plan, and tuition assistance. One employee manual covers the terms and conditions of work of all employees and deals with discipline, attendance, pay periods, and confidentiality requirements, among other things.

### *Contact and Interchange*

Because Field Technicians generally perform their services alone, there is no significant face-to-face contact among the Field Technicians, including those within the same Region. Field Technicians may contact each other by telephone for troubleshooting tips or to coordinate service for customers who have multiple locations. As noted above, they also participate in the same meetings, although often by conference call.

At various times each year from 2001 to 2003, for a total of approximately 14 months, 10 Ohio Field Technicians rotated into the Northern, Southern, and King of Prussia Regions to assist with heavy workloads. They were treated no differently than Field Technicians who regularly serviced these Regions. There is no other evidence of Field Technicians working outside their home Regions.

### *Distance between locations*

The distance between field offices was not part of the record. However, I take administrative notice that the distance between New York City and Richmond, Virginia, is approximately 340 miles. The distance between Trenton, New Jersey, and Cleveland, Ohio is approximately 450 miles, and King of Prussia is about 413 miles from Cleveland.

### *Bargaining history*

There is no evidence of bargaining history involving any of the employees at issue.

## **B. Network Engineers**

### *Job functions*

Network Engineers are involved in customer sales, as well as installations, and their installations generally involve more complex equipment and procedures than those of the Field Technicians. They perform some of the same functions as Field Technicians, such as installing routers, firewalls, and cable lines, but they do cabling work less frequently and they handle higher-level routers. They also perform higher-level configuration work than the Field Technicians, and they prepare Virtual Private Networks (VPNs) and “visio-documentation,” or schematics, of their customers’ systems. Network Engineers are more likely to use special order equipment, rather than standard equipment. In general, unlike the Field Technicians, they do not install standard equipment but customize their work to the clients’ particularized needs. Additionally, they do not perform voice communication installations, as do Field Technicians, but focus exclusively on data systems.

Similar to Field Technicians, Network Engineers work primarily at customer locations. They also work alone 95 to 98 percent of the time. Network Engineers’ assignments tend to last for multiple days, in contrast to the Field Technician assignments which are completed the same day. At the conclusion of their assignments, they are required to prepare administrative reports.

Network Engineers consult with customers prior to a sale to determine the appropriate services needed. They also work with sales personnel to review customer needs and to design service packages. Presale work is estimated to be about 20 percent of their duties, and they spend about 10 to 20 percent of their time working with salespersons.

Assignments for Network Engineers are generated automatically through the Employer’s computer system or through calls to the Employer’s Technical Assistance Center. Like Field Technicians, Network Engineers retrieve their assignments via remote access.

### *Skills*

Network Engineers must possess a Bachelor’s degree or its equivalent. They also must have one to three years of experience with IP routing devices, firewall technologies, and VPN technologies, as well as experience with Microsoft Server technologies. Network Engineers are required to hold certifications from Cisco and Microsoft and be skilled in working with Cisco Routers and Microsoft NT Servers.<sup>9</sup>

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<sup>9</sup> Network Engineer Kevin Dowling has a Bachelor of Arts degree and studied Network Engineering at a technical school for six months.

### *Supervision*

Four Network Engineers report to Director of Data Services Rick Akey. The Vice President of Network Services, William McFeeley, supervises the other two as part of the Employer's "Enterprise Group," which services the customers from whom the highest revenue is derived. The Enterprise Group also consists of Project Planners and Group Engineers.

### *Contact and interchange*

The only interaction between Network Engineers and Field Technicians occurs when they service the same customer, with the Field Technician providing voice services and the Network Engineer providing advanced data services. Sometimes, they will perform this work at the same time, while at other times the Field Technician will install the voice services first. The two classifications might be at the customer's site at the same time, but this interaction would be purely coincidental.

Whiley testified that some Field Technicians might have no interaction with Network Engineers, but he estimated that at most they might have up to 10 interactions in a given month. Network Engineer Dowling testified that he worked with Field Technicians, simultaneously servicing customers at different locations, about 10 times during 2004 and that he last worked side-by-side with a Field Technician in around December 2004. He also testified that he does not attend meetings with Field Technicians. Field Technician Team Lead Richard Leve testified that he worked with a Network Engineer once, about a year ago, doing separate types of work for the same customer.

About three years ago, Field Services and Network Services were temporarily integrated into one administrative division. It is not known how long this unit lasted, but it has been dissolved.

One Field Technician, Rocky Brown, became a Network Engineer in 2002. There is no record of any other transfers between Field Technicians and Network Engineers.

### *Terms and conditions of employment*

In contrast to Field Technicians, Network Engineers are salaried employees with opportunities for commissions based on sales. They typically earn between \$55,000 and \$75,000 per year. Network Engineers sometimes drive company-issued vans but may also drive company cars. They sometimes wear a uniform similar to Field Technicians, but often wear a business suit and tie, particularly when engaging in presale consultation with customers. They are covered by the same policies and procedures as the Field Technicians.

## **C. Platform Engineers**

### *Job functions, skills, and supervision*

Platform Engineers service customers who lease networking space from the Employer at the three central facilities in Philadelphia and Herndon. The Herndon central office has only



been in existence for four months. Customers lease space in cabinets or racks at the central offices to house their equipment. At these offices, Platform Engineers perform some of the same functions as Field Technicians, such as installing wiring and repairing and servicing voice and data telecommunications equipment. Among other devices, they install routers, channel service units, and firewalls. In fact, any service that can be provided in the field can be provided at the central offices. Platform Engineers do not install cables. Unlike Field Technicians, they do not travel to customer locations, and they have no face-to-face interaction with customers. Similar to Network Engineers, Platform Engineers receive assignments by computer program and not by Dispatcher.

Platform Engineers are required to know specific computer applications, including Solaris, CCNA, and STDX-9000 Frame Switch. However, Platform Engineers are not required to possess certifications. They are in the Employer's Operations division and are supervised by a Senior Platform Engineer.

#### *Contact and interchange*

In the Employer's central offices in the Ohio Region, the Ohio Field Technicians perform the work that Platform Engineers perform in Philadelphia and Herndon. In this situation, Platform Engineers will assist the Ohio Field Technicians by telephone; Whiley testified that the Ohio Field Technicians are the "eyes and ears" of the Platform Engineers. The record does not indicate how frequently Ohio Field Technicians perform the duties of the Platform Engineers. There is no evidence of Platform Engineers going to customer locations and performing the functions of the Field Technicians or of Network Engineers.

Team Lead Richard Leve testified that he does not interact with Platform Engineers. On one occasion, Field Technicians helped install wiring at the North Broad Street office, and he worked with a Platform Engineer when he ran cables there. There is no evidence of Platform Engineers and Field Technicians interacting at meetings or otherwise.

On occasion, Platform Engineers and Network Engineers may work for a customer simultaneously at two locations -- the Network Engineer at the customer's location and the Platform Engineer at a central office. Platform Engineers may visit the King of Prussia office to submit paperwork. There is no evidence of transfers between Field Technicians and Platform Engineers.

#### *Terms and conditions of employment*

Platform Engineers, like Field Technicians, are paid hourly, and they have opportunities for overtime pay. They are also eligible for bonuses, which are paid in the range of \$150 to \$700 per quarter. Annual compensation for Platform Engineers ranges from \$36,000 to \$65,000 per year. They receive the same benefits package as the Field Technicians, but they are not assigned cars or vans.

There are separate seniority lists for the three classifications at issue. Seniority is used to decide promotions and training opportunities within the classifications.

## **IV. ANALYSIS**

### **A. Ohio Field Technicians**

The Ohio Field Technicians are part of the same administrative grouping as the petitioned-for Field Technicians, and all Field Technicians are commonly supervised by Jonathan Whiley. The employees dispatched from King of Prussia and Ohio perform the same functions, work similar hours, and are covered by the same terms and conditions of employment. All Field Technicians travel from their homes to customer locations, where they spend the vast portion of their working hours. They all drive company-issued vans, use the same tools and equipment, and communicate with each other at regular teleconference meetings.

Notwithstanding the presence of an Ohio Dispatcher, all of the Field Technicians' assignments originate in King of Prussia. Although there is little face-to-face interaction between Ohio Field Technicians and other Field Technicians, this is true for all Field Technicians. Additionally, the Ohio Field Technicians worked in the same geographic areas as the petitioned-for employees for about 14 months during the years 2001 to 2003. In sum, there is no discernible difference between Field Technicians dispatched from King of Prussia and those dispatched from Ohio, except the geographic separation. While this distance would ordinarily be significant, its significance is reduced by the fact that the employees are dispatched from their homes and do not regularly visit the Employer's offices. See *Trane, an Operating Unit of American Standard Companies*, 339 NLRB 866, 868 (2003). The significance is further reduced by the fact that the petitioned-for unit includes Field Technicians working in Virginia and other areas far from King of Prussia.<sup>10</sup> Based on the Field Technicians' common supervision, duties, and employment conditions, the Employer's administrative structure, and the centralized nature of the Employer's operations, I find that there is a sufficient community of interest between the Ohio Field Technicians and the other Field Technicians to warrant their inclusion in a single unit. *Laboratory Corp*, 341 NLRB No. 140, slip op. at 4 (2004); *Trane*, supra; *Bashas', Inc.*, supra, 337 NLRB at 711; *Macy's West*, supra, 327 NLRB at 1223.

### **B. Network Engineers**

The Network Engineers are in a separate administrative grouping from the Field Technicians and are separately supervised. Network Engineers have minimal contact with Field Technicians and interact with them only when they are working for the same customer at the same time. Rather, they often work closely with salespersons, and two of the six Network Engineers work in the Enterprise Group with Project Planners and Group Engineers who are not part of the petitioned-for unit. Unlike the Field Technicians, the Network Engineers sometimes wear suits and ties and drive company cars rather than vans. Their installation and repair work is more complex than the Field Technicians' work, requiring greater skill and more advanced certifications. They also have regular customer contact as part of their sales function, which is

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<sup>10</sup> A unit of employees based only in the King of Prussia Region would also be inappropriate, as there is no administrative grouping that would distinguish the employees in this manner.

an important part of their jobs. Significantly, unlike the Field Technicians, they are salaried employees who are not eligible for overtime pay, and they receive commissions based on sales. Accordingly, I find that although both classifications sometimes perform similar tasks, the two groups have a separate community of interest, and the Network Engineers should not be included in the petitioned-for unit. *Deposit Telephone Co.*, 328 NLRB 1029, 1031 (1999); *Audiovox Communications Corp.*, 323 NLRB 647 (1997).

### **C. Platform Engineers**

I shall also exclude the Platform Engineers. They are separately supervised from the Field Technicians and are part of a different administrative division. They never see the Field Technicians. Their only interaction occurs when Ohio Field Technicians perform Platform Engineer work, and the record does not show the frequency of these contacts. Unlike the Field Technicians, they work at the same location every day. Platform Engineers work at the same facilities as Switch Technicians and Translation Engineers who are not part of the petitioned-for unit. Although Platform Engineers and Field Technicians perform many of the same functions and have similar compensation, I find these factors insufficient to require that they be added to the unit sought by the Petitioner, and I shall exclude them. *Post-Newsweek Stations, Capitol Area, Inc.*, 203 NLRB 522, 524 (1973);<sup>11</sup> *Dixie Spindle and Flyer Company, Inc.*, 84 NLRB 109, 110 (1949).<sup>12</sup>

## **V. CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

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<sup>11</sup> In that case, the Board found that a television news editor should not be included in a unit of radio production editors, production assistants and copy attendants, where the television and radio operations were run as separate departments, as shown by their different immediate supervision, locations, final product, and the fact that there was little employee interchange between them.

<sup>12</sup> In that case, the Board declined to include frame mechanics that performed their work outside the plant with frame mechanics that performed their work inside the plant shop, although they were engaged in the same general type of work, finding that their interests and working conditions were clearly separate.

The cases relied upon by the Employer are distinguishable. In *Chromalloy Photographic*, 234 NLRB 1046 (1978), the Board determined that camera repair and maintenance employees did not have a distinct community of interest from other employees where all employees worked in the same building, and their work was part of a single highly integrated process. In *Proctor & Gamble*, 251 NLRB 492 (1980), the disputed classification of electrical field technicians also worked in close proximity to other employees at the same facility and performed half of their work with them in a team setting. Finally, in *Boeing Co.*, supra, 337 NLRB 152, the petitioner sought a unit of one of three classifications of employees that built the same aircraft. The Board found this unit inappropriate, noting that the three classifications worked in the same building, shared a common lunch area, and sometimes transferred across classifications. Also, the job functions were so integrated that one classification could not complete its tasks without the input of the others.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Field Technicians I, II, and III, Team Leads, the Facilities Warehouse employee, and the Inventory Management employee employed by the Employer, **excluding** Network Engineers, Platform Engineers, all other employees, guards, and supervisors within the meaning of the Act.

## **VI. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for the purposes of collective bargaining by **Communications Workers of America, Local 13000, AFL-CIO**. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Eligible Voters**

The eligible voters shall be unit employees employed during the designated payroll period for eligibility, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are: 1) employees who have quit or been discharged for cause after the designated payroll period for eligibility; 2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and 3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

## **B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the **full** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). These lists may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the lists available to all parties to the election only after I shall have determined that an adequate showing of interest among the employees in the units found appropriate have been established.

To be timely filed, the list must be received in the Regional Office, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106 on or before **April 25, 2005**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (215) 597-7658, or by e-mail to [Region4@NLRB.gov](mailto:Region4@NLRB.gov).<sup>13</sup> Since the list will be made available to all parties to the election, please furnish a total of two (2) copies, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

## **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

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<sup>13</sup> See OM 05-30, dated January 12, 2005, for a detailed explanation of requirements which must be met when electronically submitting representation case documents to the Board, or to a Region's electronic mailbox. OM 05-30 is available on the Agency's website at [www.nlr.gov](http://www.nlr.gov).

## **VII. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. A request for review may also be submitted by e-mail. For details on how to file a request for review by e-mail, see <http://gpea.NLRB.gov/>. This request must be received by the Board in Washington by 5:00 p.m., EDT on **May 2, 2005**.

Signed: April 18, 2005

at Philadelphia, PA

/s/

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DOROTHY L. MOORE-DUNCAN  
Regional Director, Region Four